

1 ROBBINS GELLER RUDMAN  
2 & DOWD LLP  
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13 Attorneys for Plaintiff

14 [Additional counsel appear on signature page.]

15 UNITED STATES DISTRICT COURT  
16 CENTRAL DISTRICT OF CALIFORNIA  
17 SOUTHERN DIVISION

18 JOHN K. NORTON, Individually and  
19 on Behalf of All Others Similarly  
20 Situated,

21 Plaintiff,

22 vs.

23 QUESTCOR PHARMACEUTICALS,  
24 INC., DON M. BAILEY, MICHAEL H.  
25 MULROY, STEPHEN L. CARTT and  
26 DAVID YOUNG,

27 Defendants.

28 **VIA FAX**

29 No. SACV12- 1623 DMG (FMOx)

30 **CLASS ACTION**

31 COMPLAINT FOR VIOLATION OF  
32 THE FEDERAL SECURITIES LAWS

33 **DEMAND FOR JURY TRIAL**

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## JURISDICTION AND VENUE

2       1. The claims asserted herein arise under and pursuant to §§10(b) and 20(a)  
3 of the Securities Exchange Act of 1934 (the “1934 Act”) (15 U.S.C. §§78j(b) and  
4 78t(a)) and Rule 10b-5 (17 C.F.R. §240.10b-5) promulgated thereunder by the U.S.  
5 Securities and Exchange Commission (“SEC”).

6       2. This Court has jurisdiction over the subject matter of this action pursuant  
7 to 28 U.S.C. §1331 and §27 of the 1934 Act (15 U.S.C. §78aa).

8       3.     Venue is proper in this District pursuant to §27 of the 1934 Act and 28  
9 U.S.C. §1391(b), as many of the acts and practices complained of herein occurred in  
10 substantial part in this District.

11       4.     Questcor Pharmaceuticals, Inc. (“Questcor” or the “Company”) maintains  
12 its principal executive offices at 1300 North Kellogg Drive, Suite D, Anaheim,  
13 California 92807. Certain of the acts and conduct complained of herein, including  
14 dissemination of materially false and misleading information to the investing public,  
15 occurred in this District.

16       5.     In connection with the acts alleged in this Complaint, defendants, directly  
17 or indirectly, used the means and instrumentalities of interstate commerce, including,  
18 but not limited to, the mails, interstate telephone communications and the facilities of  
19 the national securities markets.

## INTRODUCTION

21       6. This is a securities class action on behalf of all persons who purchased or  
22 otherwise acquired Questcor common stock between April 26, 2011 and September  
23 21, 2012, inclusive (the “Class Period”), against Questcor and certain of its officers  
24 and/or directors for violations of the 1934 Act. These claims are asserted against  
25 Questcor and certain of its officers and/or directors who made materially false and  
26 misleading statements during the Class Period in press releases, analyst conference  
27 calls, and filings with the SEC.

1       7.     Questcor is a biopharmaceutical company. The Company's primary  
2 product is H.P. Acthar Gel (Repository Corticotropin Injection) ("Acthar"), an  
3 injectable drug that is approved by the U. S. Food and Drug Administration ("FDA")  
4 for the treatment of 19 indications, including multiple sclerosis ("MS"), a condition  
5 of the central nervous system; nephrotic syndrome, a kidney condition; and infantile  
6 spasms, an epileptic condition affecting babies.

7       8.     Specifically, throughout the Class Period, defendants violated the federal  
8 securities laws by disseminating false and misleading statements to the investing  
9 public about the effectiveness of Acthar as a treatment for MS and nephrotic  
10 syndrome, making it impossible for shareholders to gain a meaningful or realistic  
11 understanding of the drug's prospects and market success. As a result of defendants'  
12 false statements, Questcor's stock traded at artificially inflated prices during the Class  
13 Period, reaching a high of \$57.64 per share on July 9, 2012.

14      9.     On September 19, 2012, Citron Research ("Citron") reported that Aetna  
15 Inc. ("Aetna"), one of the nation's largest insurers, had recently revised its policy  
16 concerning Acthar, which would severely limit coverage of Questcor's primary drug.  
17 Aetna had engaged in a review of the 19 indications for which the FDA had approved  
18 Acthar. Based upon its findings, Aetna determined that clinical research supported  
19 only one of the 19 indications. In Aetna's clinical policy bulletin issued in connection  
20 with its review, Aetna reported that studies suggested that the drug is only "medically  
21 necessary" for West syndrome, a rare condition that causes infantile spasms, and not  
22 for other indications, such as MS, that are treated with steroids. Typically, Aetna only  
23 reimburses for drugs when they are deemed medically necessary. According to an  
24 Aetna spokesperson, "'Our previous position was that this was a last-resort  
25 treatment. . . . We now state that it is not medically necessary because there is no  
26 clinical evidence that the drug is more effective than steroids.'"

27      10.    On this news, Questcor's stock plummeted \$24.17 per share to close at  
28 \$26.35 per share on September 19, 2012, a one-day decline of 48% on high volume.

1        11. Then, on September 24, 2012, Questcor announced in a Form 8-K filed  
2 with the SEC that the U.S. government had initiated an investigation into the  
3 Company's promotional practices.

4        12. After this news, Questcor's stock dropped \$11.05 per share to close at  
5 \$19.08 per share on September 24, 2012, a one-day decline of 37% on high volume.

6       13. The true facts, which were known by the defendants but concealed from  
7 the investing public during the Class Period, were as follows:

(a) Questcor lacked clinical evidence to support the use of Acthar for indications other than infantile spasms.

14. As a result of defendants' false statements, Questcor stock traded at  
15 artificially inflated levels during the Class Period. However, after the above  
16 revelations seeped into the market, the Company's shares were hammered by massive  
17 sales, sending them down 67% from their Class Period high.  
18

## PARTIES

20       15. Plaintiff John K. Norton purchased the common stock of Questcor during  
21 the Class Period as set forth in the certification attached hereto and was damaged as  
22 the result of defendants' wrongdoing as alleged in this complaint.

23 | 16. Defendant Questcor is a biopharmaceutical company.

24        17. Defendant Don M. Bailey (“Bailey”) is, and at all relevant times was, the  
25 Company’s Chief Executive Officer (“CEO”), President and a director. During the  
26 Class Period, defendant Bailey sold 440,000 shares of his Questcor stock for proceeds  
27 of over \$17.7 million.

1        18. Defendant Michael H. Mulroy (“Mulroy”) is, and at all relevant times  
2 was, the Company’s Chief Financial Officer (“CFO”), Senior Vice President and  
3 General Counsel.

4        19. Defendant Stephen L. Cartt (“Cartt”) is, and at all relevant times was, the  
5 Company’s Chief Operating Officer (“COO”). During the Class Period, defendant  
6 Cartt sold 505,509 shares of his Questcor stock for proceeds of over \$16.2 million

7        20.    Defendant David Young (“Young”) is, and at all relevant times was, the  
8 Company’s Chief Scientific Officer. During the Class Period, defendant Young sold  
9 175,124 shares of his Questcor stock for proceeds of nearly \$7.1 million.

10       21. The defendants named above in ¶¶17-20 are referred to herein as the  
11 "Individual Defendants."

12        22. The Individual Defendants, because of their positions with the Company,  
13 possessed the power and authority to control the contents of Questcor's quarterly  
14 reports, press releases and presentations to securities analysts, money and portfolio  
15 managers and institutional investors, *i.e.*, the market. They were provided with copies  
16 of the Company's reports and press releases alleged herein to be misleading prior to or  
17 shortly after their issuance and had the ability and opportunity to prevent their  
18 issuance or cause them to be corrected. Because of their positions with the Company,  
19 and their access to material non-public information available to them but not to the  
20 public, the Individual Defendants knew that the adverse facts specified herein had not  
21 been disclosed to and were being concealed from the public and that the positive  
22 representations being made were then materially false and misleading. The Individual  
23 Defendants are liable for the false statements pleaded herein.

## **FRAUDULENT SCHEME AND COURSE OF BUSINESS**

25        23. Defendants are liable for: (i) making false statements; or (ii) failing to  
26 disclose adverse facts known to them about Questcor. Defendants' fraudulent scheme  
27 and course of business that operated as a fraud or deceit on purchasers of Questcor  
28 common stock was a success, as it: (i) deceived the investing public regarding

1 Questcor's prospects and business; (ii) artificially inflated the price of Questcor  
2 common stock; (iii) caused plaintiff and other members of the Class to purchase  
3 Questcor common stock at inflated prices; and (iv) permitted the officer and directors  
4 of Questcor to sell over 3.1 million shares of their Questcor stock at artificially  
5 inflated prices for proceeds of over \$107.4 million.

## 6 **BACKGROUND**

7       24.     Questcor is a single product company, with Acthar accounting for nearly  
8 all of its revenue. Acthar, a highly specialized, low-volume, premium-priced drug,  
9 was originally approved by the FDA in 1952. The injectable hormone has a broad  
10 label, as it has been approved by the FDA for use in 19 indications. Acthar is a first-  
11 line treatment for infantile spasms, a rare, terrible seizure disorder that affects around  
12 1,500 babies a year in the U.S. Acthar was approved for the treatment of MS relapse  
13 in 1978. It was used extensively as a treatment for MS in the 1970s, but was largely  
14 abandoned in the 1980s after corticosteroids came on the market, as the powerful  
15 steroids proved to be a superior alternative to Acthar.

16       25.     Questcor acquired the rights to Acthar in 2001 for \$100,000. At the time,  
17 Acthar was almost exclusively being used to treat infantile spasms. In 2007, Questcor  
18 filed an application with the FDA to obtain orphan drug status for Acthar for the  
19 treatment of infantile spasms. The FDA grants orphan status to a drug that treats a  
20 disease affecting fewer than 200,000 people. Orphan status provides a company with  
21 seven years of marketing exclusivity. At the same time the Company filed its  
22 application with the FDA, Questcor raised the price of Acthar from \$1,650 per vial to  
23 \$23,000 per vial, a literally overnight increase of over 1300%. As a result of the  
24 significant price increase, 2007 was the first year in the history of the drug that Acthar  
25 made money. The FDA approved Questcor's orphan drug status application in  
26 October 2010.

27       26.     Soon after the Company enacted the tremendous price hike, Questcor  
28 embarked on an aggressive strategy to transform Acthar into a blockbuster drug.

1 Questcor's sole strategic goal was to promote Acthar and expand the use of the drug  
2 for other indications, initially focusing on using Acthar for the treatment of MS  
3 beginning at the end of 2007, followed by nephrotic syndrome in the first quarter of  
4 2011. Questcor markets Acthar as a second line treatment for MS after patients are  
5 not responsive to steroids and markets Acthar as a first-line treatment for nephrotic  
6 syndrome.

7        27. As a result of Questcor's new strategy, the Company has grown  
8 tremendously, with its net sales increasing from \$49.8 million in 2007 to \$218.2  
9 million in 2011. The main source of the Company's growth is the use of Acthar in the  
10 treatment of MS and nephrotic syndrome. Currently, infantile spasms, the condition  
11 for which it received orphan drug status, accounts for only 6%-10% of the Company's  
12 revenues.

## **DEFENDANTS' FALSE AND MISLEADING STATEMENTS ISSUED DURING THE CLASS PERIOD**

28. On April 26, 2011, Questcor issued a press release announcing its first quarter 2011 financial results. The Company reported net income of \$11.2 million, or \$0.17 diluted earnings per share (“EPS”), and net sales of \$36.8 million for the first quarter of 2011. The release stated in part:

18            “Our strategy to expand the sales force is clearly paying off,” said  
19            Don M. Bailey, President and CEO of Questcor. “Paid MS prescriptions  
20            are up sharply from last quarter. March was a particularly strong month  
21            and this momentum has continued so far in April. We believe that  
22            Acthar is filling an increasingly important role in the treatment of  
23            exacerbations associated with MS and, looking forward, we expect to  
24            continue to grow sales in this important therapeutic area.”

25 Mr. Bailey added, "We are also encouraged by the early positive  
26 results from our small, dedicated nephrology sales team, which initiated  
27 selling efforts at the beginning of March. The number of nephrologists

1 who are using Acthar to treat patients with nephrotic syndrome is  
2 increasing.”

3 29. After issuing its first quarter 2011 financial results on April 26, 2011,  
4 Questcor hosted a conference call for analysts, media representatives and investors.  
5 During the call, defendants reiterated the record financial results reported in the  
6 Company’s press release and defendant Mulroy discussed the Company’s financial  
7 performance in depth. Defendants Bailey and Cartt further presented prepared  
8 statements at the conference call and represented as follows:

9 [BAILEY:] In summary, we are off to a very good start this year  
10 as we continue to execute our straightforward strategy to sell more  
11 Acthar. Our decision to expand the MS sales force is clearly paying off.  
12 Also, our nephrotic syndrome sales force is having some early success.

13 \* \* \*

14 We believe this MS sales performance reflects the strong,  
15 underlying demand for Acthar. This growth in demand is being driven by  
16 the increasing productivity of our expanded sales force. We believe net  
17 sales in the MS market are now about 60% of total Acthar net sales.

18 \* \* \*

19 [CARTT:] Our expanded promotional activities directed to  
20 neurologists generated significant growth in Acthar prescriptions for MS  
21 during the first quarter. During the quarter we shipped a record 508 paid  
22 Acthar prescriptions for the treatment of MS relapses. This was an  
23 increase of 120% over the year ago period and 44% over the previous  
24 quarter. We believe this performance is a strong signal that the sales  
25 force expansion has gained traction in the MS market at a faster rate than  
26 we expected.

27 \* \* \*

28

1           Our promotional efforts are increasingly focused on two main  
2 goals. One, convincing an increasing number of prescribers about the  
3 benefits of using Acthar with their patients and two, helping doctors,  
4 nurses and others in their medical practice become more effective at  
5 identifying potential Acthar patients.

6                                 \*           \*           \*

7           In addition to increased promotion by our sales reps, Acthar sales  
8 are benefiting from our sponsored physician speaker programs. In these  
9 programs existing Acthar prescribers present to small groups of  
10 physicians their experiences using Acthar and the published efficacy and  
11 safety data for Acthar in MS relapses.

12           When combined with followup sales calls, these programs appear  
13 to be a key driver of our sales growth. Recently we've been significantly  
14 increasing the number of speaker programs being conducted and expect  
15 to continue doing so in the future.

16           30. On July 26, 2011, Questcor issued a press release announcing its second  
17 quarter 2011 financial results. The Company reported net income of \$13.9 million, or  
18 \$0.21 diluted EPS, and net sales of \$46.0 million for the second quarter of 2011. The  
19 release stated in part:

20           “Clearly, Questcor had a terrific quarter,” said Don M. Bailey,  
21 President and CEO of Questcor. “Our focus on expanding the use of  
22 Acthar in the treatment of MS exacerbations drove our record second  
23 quarter financial performance. Importantly, in spite of the rapid  
24 expansion in the use of Acthar for MS exacerbations, we believe that the  
25 prescriber base can continue to grow. Accordingly, growing MS sales  
26 remains our number one priority. Also, following our early success in  
27 nephrotic syndrome, we are immediately and substantially expanding our  
28 nephrology selling effort.”

1       31. After issuing its second quarter 2011 financial results on July 26, 2011,  
2 Questcor hosted a conference call for analysts, media representatives and investors.  
3 During the call, defendants reiterated the record financial results reported in the  
4 Company's press release and defendant Mulroy discussed the Company's financial  
5 performance in depth. Defendants Bailey, Cartt and Young further presented prepared  
6 statements at the conference call and represented as follows:

7             [CARTRT:] During the quarter we shipped a record 751 paid  
8 Acthar prescription for the treatment of MS relapses. This was an  
9 increase of 147% over the year-ago period, and 48% over the previous  
10 quarter. We believe this performance is a strong signal that the sales  
11 force continues to gain traction in the MS market at a faster rate than we  
12 expected. In addition to rapid growth, our trends at MS are all very good  
13 and indicate that we are building momentum in this key Acthar market.

14                             \*       \*       \*

15             So, let's summarize. We are very pleased with the robust MS  
16 prescription growth during the quarter and expect continued growth  
17 during 2011 and into 2012 as a result of the continued sustained sales  
18 call activity. Our early prescription trends in nephrology are surprisingly  
19 strong and we are quickly expanding our sales capability in MS, which  
20 will result in a dramatic increase in the number of nephrologists that we  
21 can call on at the end of the third quarter, just about two months away.

22                             \*       \*       \*

23             [BAILEY:] Our go-forward plan is extremely simple and remains to sell  
24 more Acthar. That is, gross sales in each of our key markets, MS, NS and  
25 IS, and then expand our commercial effort into other Acthar on-label  
26 markets and try to generate Acthar usage in those markets. In the second  
27 quarter we continued our momentum and had increasing sales levels  
28 combined with strong profit margins and substantial free cash flow. We

1       are continuing to focus on MS sales. The commercial team is highly  
2       motivated, highly incentivized and highly productive.

3           Based on positive nephrotic syndrome script growth, we are now  
4       increasing our focus on nephrotic syndrome sales and are expanding our  
5       MS selling efforts. We are applying what we have learned during our  
6       four MS sales force increases, so that for nephrotic syndrome we can  
7       accelerate the commercial team buildout.

8       32. On October 25, 2011, Questcor issued a press release announcing its third  
9       quarter 2011 financial results. The Company reported net income of \$22.9 million, or  
10      \$0.35 diluted EPS, and net sales of \$59.8 million for the third quarter of 2011. The  
11      release stated in part:

12           “Questcor’s strategy to sell more Acthar continues to generate  
13       increasing net sales and earnings,” said Don M. Bailey, President and  
14       CEO of Questcor. “Our commercial organization is steadily expanding  
15       the number of neurologists, nephrologists, and child neurologists  
16       prescribing Acthar. We believe Acthar has the potential to benefit many  
17       more MS, NS, IS and possibly lupus patients in the future.”

18           “Our 77 person Specialty Sales Force continues to drive expanded  
19       usage of Acthar as second-line therapy for MS exacerbations, a key  
20       Acthar market,” commented Steve Cartt, Executive Vice President and  
21       Chief Business Officer. “Furthermore, during the third quarter we  
22       completed the expansion of our Nephrology Sales Force from 5 to 28  
23       representatives, with all new personnel being fully trained and making  
24       initial sales calls by October 1st. Despite the inherent disruption  
25       involved with this expansion, paid nephrotic syndrome Acthar  
26       prescriptions increased during the quarter. September was a particularly  
27       strong month for both MS and NS sales.”

28



1       34. On January 11, 2011, *TheStreetSweeper.org*, a website noted for  
2 unearthing corporate fraud in public companies, announced that it had initiated a short  
3 position in Questcor. *StreetSweeper* further reported that it intended to issue the first  
4 article in a two-part investigative series about Questcor in the following week.  
5 According to *StreetSweeper*:

6              The first article raises serious questions about the aggressive  
7 marketing practices that [Questcor] has used to generate explosive – but  
8 potentially unsustainable – growth in prescriptions for its only drug  
9 while the second story further examines QCOR’s business practices,  
10 while taking a hard look at the leaders who have struck it rich as a result  
11 of the company’s controversial growth strategy.

12       35. Thereafter, Questcor went to extensive lengths to refute the claims raised  
13 by *StreetSweeper.org* and defend the Company’s business practices. As a result,  
14 Questcor’s stock continued to be artificially inflated.

15       36. On January 11, 2012, Questcor issued a press release entitled “Questcor  
16 Pharmaceuticals Issues Statement,” which stated in part:

17              Questcor Pharmaceuticals, Inc. today announced it became aware that an  
18 investor blog is preparing to issue a report regarding the Company’s  
19 marketing and business practices. Questcor issued the following  
20 statement:

21              The Company believes that its marketing and business practices  
22 are consistent with regulatory requirements and industry standard  
23 practices. Questcor markets H.P. Acthar® Gel for the treatment of acute  
24 exacerbations of multiple sclerosis (MS) in adults, the treatment of  
25 nephrotic syndrome, and the treatment of infantile spasms in children  
26 under two years of age. The Company maintains a compliance program,  
27 which is led by an experienced compliance officer and includes the  
28 active participation of Questcor’s executive management team. Questcor

1       attributes its success to the ability of Acthar to potentially address the  
2       unmet medical need associated with MS exacerbations and nephrotic  
3       syndrome. The Company is committed to providing access to Acthar to  
4       patients who need it, and marketing Acthar in accordance with  
5       regulatory requirements and industry standard practices. Questcor plans  
6       to speak with the publication to discuss the Company and its marketing  
7       and business practices.

8       37. On February 22, 2012, Questcor issued a press release announcing its  
9       fourth quarter and full year 2011 financial results. The Company reported net income  
10      of \$31.6 million, or \$0.48 diluted EPS, and net sales of \$75.5 million for the fourth  
11      quarter of 2011. Additionally, the Company reported net income of \$79.6 million, or  
12      \$1.21 diluted EPS, and net sales of \$218.2 million for fiscal year 2011. The release  
13      stated in part:

14             “Net sales growth in the fourth quarter was driven by the  
15       increasing numbers of physicians who are recognizing the potential for  
16       Acthar to help patients with MS and NS,” said Don M. Bailey, President  
17       and CEO of Questcor. “We are particularly encouraged by the growing  
18       number of physicians who recognize the therapeutic value of Acthar in  
19       their practices, especially for those patients who have not adequately  
20       responded to other treatments.”

21       38. After issuing its fourth quarter and full year 2011 financial results on  
22       February 22, 2012, Questcor hosted a conference call for analysts, media  
23       representatives and investors. During the call, defendants reiterated the record  
24       financial results reported in the Company’s press release and defendant Mulroy  
25       discussed the Company’s financial performance in depth. Defendants Bailey, Cartt  
26       and Young further presented prepared statements at the conference call and  
27       represented as follows:

28

1 [BAILEY:] As we look ahead to 2012 and beyond, we believe we  
2 can sustainably grow our Business due to three key factors. First, Acthar  
3 provides benefits to many difficult to treat patients not responding to  
4 other treatments. Second, our market penetration in terms of the total  
5 number of neurologists and nephrologists prescribing Acthar, while  
6 growing, remains relatively small. And third, we have assembled an  
7 excellent, experienced commercial team to pursue our growth plan. Our  
8 focus remains on helping patients with serious, difficult to treat medical  
9 conditions.

10 \* \* \*

11 A key priority of ours continues to be educating both physicians and  
12 patients about how Acthar is a viable treatment option for MS  
13 exacerbations or relapses, particularly in those patients not well served  
14 by steroids, which are generally considered first line therapy by most  
15 neurologists. This focus drove our year-over-year increase in the  
16 number of paid Acthar prescriptions for MS. In the fourth quarter of  
17 2011, there were 945 paid and shipped Acthar MS prescriptions, up from  
18 354 scripts in the fourth quarter of 2010. This is a 167% year-over-year  
19 increase. There were several factors behind this growth – positive patient  
20 outcome; increasing awareness among neurologists about how best to  
21 incorporate Acthar into their practices; continued excellent Acthar  
22 insurance coverage for MS relapses; and the increase in productivity of  
23 our MS commercial team – all combined to generate this growth.

24 \* \* \*

25 We believe that because Acthar provides real and substantial benefits to  
26 many patients who would otherwise continue to suffer the effects of  
27 serious, difficult-to-treat disorders, our growth should be sustainable. We  
28 are expanding the Organization and associated infrastructure to address

1           the significant growth opportunities in front of us. At the same time, we  
2           are off to a good start to 2012, with January MS, NS, and IS paid  
3           prescription each having a good month.

4       39. On April 24, 2012, Questcor issued a press release announcing its first  
5           quarter 2012 financial results. The Company reported net income of \$38.5 million, or  
6           \$0.58 diluted EPS, and net sales of \$96.0 million for the first quarter of 2012. The  
7           release stated in part:

8                 “While our substantial NS commercial effort only began in the  
9           fourth quarter of 2011, the value of NS shipped prescriptions now  
10           exceeds that of MS,” said Don M. Bailey, President and CEO of  
11           Questcor. “This faster-than-expected NS growth drove us to further  
12           expand the NS commercial effort prior to the additional expansion of our  
13           MS commercial team.”

14       40. After issuing its first quarter 2012 financial results on April 24, 2012,  
15           Questcor hosted a conference call for analysts, media representatives and investors.  
16           During the call, defendants reiterated the record financial results reported in the  
17           Company’s press release and defendant Mulroy discussed the Company’s financial  
18           performance in depth. Defendants Bailey, Cartt and Young further presented prepared  
19           statements at the conference call and represented as follows:

20                 [BAILEY:] Questcor’s unconventional but simple business model  
21           continues to produce excellent financial results. Shift files, net sales and  
22           earnings were all up well over 100% year-over-year. We continue to  
23           expand nephrologist and neurologist awareness of patient benefits from  
24           Acthar, and as a result paid prescriptions continue to increase. Driving  
25           our growth in the first quarter was the strong increase in paid  
26           prescriptions written by nephrologists to treat patients with nephrotic  
27           syndrome, a serious kidney ailment. After a successful pilot program, we  
28           stepped up our nephrology commercial effort last October. The expected

1 revenues from nephrotic syndrome prescriptions are accelerating to the  
2 point that, by our calculation, nephritic syndrome scrip value now  
3 exceeds MS.

4 \* \* \*

5 [CARTT:] Insurance reimbursements for Acthar in nephrotic  
6 syndrome continues to be very good, with more than 85% of private  
7 insurance prescriptions covered. We attribute this continued strong  
8 coverage to the severity of the health outcome if nephrotic syndrome is  
9 not adequately treated, coupled with the fact that Acthar is indicated and  
10 approved in this condition, and there are few other treatment options.  
11 Further supporting both coverage and prescribing activity is the ongoing  
12 flow of positive results coming from the various studies we are funding.  
13 In fact, data from one study at the University of Toronto, is being  
14 presented just this week at the Canadian nephrology society annual  
15 meeting. This particular study found that about two-thirds of patients  
16 with nephrotic syndrome due to idiopathic membranous nephropathy,  
17 had their proteinuria drop by 50% or more, due to Acthar treatment.

18 \* \* \*

19 [YOUNG:] As noted by the newest research analyst to cover Questcor,  
20 Acthar can truly be considered a pipeline within a drug. While quite  
21 rare, there are, in effect, few other successful examples of the type of  
22 product. Soliris and Botox come to mind, for example. We have a  
23 significant opportunity with Acthar to expand use from our three existing  
24 markets that Steve just discussed to other markets that are part of the list  
25 of 19 approved on-label indications. In addition, as we've been learning  
26 more about the pharmacology of Acthar, including how and why Acthar  
27 acts differently than steroids, there are many other new indications with  
28 unmet medical needs, where we and others believe Acthar could provide

1           a significant clinical benefit. Currently, we have approximately 20  
2           company-sponsored pre-clinical and clinical studies ongoing, and are  
3           supporting around 20 ongoing investigator-initiated studies.

4         41. On July 9, 2012, Questcor's stock reached its Class Period high of \$57.64  
5 per share.

6         42. On July 10, 2012, Citron issued an in-depth research report regarding  
7 Questcor. Citron expanded on the *StreetSweeper.org* articles and further raised  
8 concerns about the Company's marketing strategy and a possible generic threat to  
9 Acthar. The report discussed the competitive landscape for Acthar and was critical of  
10 the Company's assertions that there were significant barriers to entry into the market.  
11 Citron further questioned whether there was credible scientific data to support  
12 Questcor's aggressive strategy to expand the use of Acthar for indications other than  
13 infantile spasms. In addition, the research report analyzed the Company's marketing  
14 expenses and questioned how the drug was being marketed to doctors. The Citron  
15 report further condemned Questcor for the lack of any meaningful research and  
16 development being engaged in by the biopharmaceutical company. The report noted:  
17 ***"Just the insider selling over the last year represents more cash than Questcor has***  
18 ***spent on research and development over its entire lifespan."*** The research report was  
19 not only critical of the amount of insider selling over the past year but it was also  
20 critical about its timing given the Company was buying back large amounts of  
21 Company stock at the same time the insiders were selling their shares.

22         43. Despite the serious allegations raised in the Citron report, Questcor  
23 continued to refute the claims and portrayed the claims as being made by a short  
24 seller. As a result, Questcor's stock continued to be artificially inflated.

25         44. On July 24, 2012, Questcor issued a press release announcing its second  
26 quarter 2012 financial results. The Company reported net income of \$41.5 million, or  
27 \$0.65 diluted EPS, and net sales of \$112.5 million for the second quarter of 2012. The  
28 release stated in part:

“In the second quarter, we surpassed \$100 million in quarterly net sales for the first time in our history,” said Don M. Bailey, President and CEO of Questcor. “Our strong financial results were driven by increasing usage of Acthar among nephrologists and neurologists. With the expansion of our Nephrology Sales Force now complete, the expansion of our Neurology Sales Force nearing completion, and the initial detailing effort of a small sales force in Rheumatology just getting started, we are optimistic about the potential for Acthar to help an increasing number of patients with serious, difficult-to-treat autoimmune and inflammatory disorders.”

11        45. After issuing its second quarter 2012 financial results on July 24, 2012,  
12 Questcor hosted a conference call for analysts, media representatives and investors.  
13 During the call, defendants reiterated the record financial results reported in the  
14 Company's press release and defendant Mulroy discussed the Company's financial  
15 performance in depth. Defendants Bailey, Cartt and Young further presented prepared  
16 statements at the conference call and represented as follows:

[BAILEY:] We made significant progress with our business in the last three months. Financial performance again improved. We almost doubled the number of shipped vials in the quarter, more than doubled net sales, and tripled earnings from the year-ago quarter. Paid scripts increased for both nephrotic syndrome and MS. We expanded two sales forces and started building a third sales force in Rheumatology, using the same formula that worked so well with MS and nephrotic syndrome. And, we also made good progress in both our science and compliance programs.

\* \* \*

[CARTT:] Very importantly, we often hear anecdotally that Acthar treatment is producing positive results for patients. This is not

1 always the case, of course; not everyone responds. But, clearly, many  
2 patients are benefiting significantly from this drug, and there are few  
3 other treatment options available. All these factors are contributing to  
4 the rapid increase in Acthar usage in nephrotic syndrome.

5 \* \* \*

6 Our year-over-year growth in MS paid scripts is due to positive  
7 patient outcomes, increasing awareness about how Acthar can help  
8 patients who are not fully benefiting from other therapies, continued  
9 excellent Acthar insurance coverage for MS relapse, and the increasing  
10 productivity of our MS commercial team.

11 \* \* \*

12 [YOUNG:] As you can see by our operating results reported in today's  
13 press release, we have been increasing our investment in research and  
14 development to better understand the unique immunomodulator and anti-  
15 inflammatory properties of Acthar Gel. Our subjects – our objectives are  
16 to produce additional supporting data for the commercial team for on-  
17 label indications and to expand our Acthar Gel used through FDA  
18 beyond current on-label indications. Surprisingly, previous owners of  
19 Acthar Gel in the pharmaceutical industry in general have not invested in  
20 ACTH-based research. Therefore, there are many research areas that  
21 still need to be assessed by our R&D group in order to better understand  
22 ACTH in the clinical role of Acthar Gel.

23 \* \* \*

24 In summary, I'd like to bring you back to my initial topic on R&D  
25 expansion. As we have previously reported, our R&D efforts have been  
26 and are continuing to focus on three areas. First, producing additional  
27 supporting data for the commercial team for on-label indications.  
28 Second, expanding Acthar Gel use beyond the existing on-label

1       indications and following FDA processes. And third, our greatest  
2 priority, better understanding the unique chemical, biological, and  
3 clinical characteristics of Acthar Gel. Our research results from this third  
4 area, thus far, suggest that developing a generic drug for Acthar Gel is  
5 very challenging. All three areas of research are intended to advance the  
6 science of Acthar Gel in order to further help patients with devastating  
7 autoimmune and inflammatory diseases.

8       46. On September 19, 2012, Citron reported that Aetna, one of the nation's  
9 largest insurers, had recently revised its policy concerning Acthar, which would  
10 severely limit coverage of Questcor's primary drug. Aetna had engaged in a review of  
11 the 19 indications for which the FDA had approved Acthar. Based upon its findings,  
12 Aetna decided that clinical research supported only one of the 19 indications. In  
13 Aetna's clinical policy bulletin issued in connection with its review, Aetna reported  
14 that studies suggested that the drug is only "medically necessary" for West syndrome,  
15 a rare condition that causes infantile spasms, and not for other indications, such as  
16 MS, that are treated with steroids. Aetna generally only reimburses for drugs when  
17 they are deemed medically necessary. According to an Aetna spokesperson, "'Our  
18 previous position was that this was a last-resort treatment. . . . We now state that it is  
19 not medically necessary because there is no clinical evidence that the drug is more  
20 effective than steroids.'"

21       47. On this news, Questcor's stock plummeted \$24.16 per share to close at  
22 \$26.25 per share on September 19, 2012, a one-day decline of nearly 48% on high  
23 volume.

24       48. Subsequently, on September 19, 2012, Questcor issued a press release  
25 entitled "Questcor Comments on Insurance Policy Bulletin," which stated in part:

26              The Company is continuing to review the Clinical Policy Bulletin  
27 related to Acthar from Aetna Inc. ("Aetna"). Currently, the Company  
28 does not believe that the bulletin represents a material change in

1 insurance coverage for Acthar by Aetna. During 2012, Aetna has  
2 accounted for approximately 5% of the Company's shipped prescriptions  
3 for Acthar. Based on its current assessment of the Clinical Policy  
4 Bulletin, the Company does not believe that the bulletin will have a  
5 material impact on the Company's results of operations.

6 49. Then, on September 24, 2012, Questcor announced in a Form 8-K filed  
7 with the SEC that the U.S. government had initiated an investigation into the  
8 Company's promotional practices.

9 50. After this news, Questcor's stock dropped \$11.05 per share to close at  
10 \$19.08 per share on September 24, 2012, a decline of 37% on high volume.

11 51. The true facts, which were known by the defendants but concealed from  
12 the investing public during the Class Period, were as follows:

13 (a) Questcor lacked clinical evidence to support the use of Acthar for  
14 indications other than infantile spasms.

15 (b) Questcor had engaged in questionable tactics to promote the sale  
16 and use of Acthar in the treatment of MS and nephrotic syndrome.

17 (c) Questcor lacked a reasonable basis to make positive statements  
18 about the Company or its outlook, including statements about the effectiveness of and  
19 potential market growth for Acthar.

20 52. As a result of defendants' false statements, Questcor stock traded at  
21 artificially inflated levels during the Class Period. However, after the above  
22 revelations seeped into the market, the Company's shares were hammered by massive  
23 sales, sending them down 67% from their Class Period high.

#### 24 **LOSS CAUSATION**

25 53. During the Class Period, as detailed herein, the defendants made false  
26 and misleading statements and engaged in a scheme to deceive the market and a  
27 course of conduct that artificially inflated the price of Questcor common stock and  
28 operated as a fraud or deceit on Class Period purchasers of Questcor common stock by

1 misrepresenting the Company's business and prospects. Later, when the defendants'  
2 prior misrepresentations and fraudulent conduct became apparent to the market, the  
3 price of Questcor common stock fell precipitously, as the prior artificial inflation  
4 came out of the price over time. As a result of their purchases of Questcor common  
5 stock during the Class Period, plaintiff and other members of the Class suffered  
6 economic loss, *i.e.*, damages, under the federal securities laws.

7 **NO SAFE HARBOR**

8 54. Questcor's verbal "Safe Harbor" warnings accompanying its oral  
9 forward-looking statements ("FLS") issued during the Class Period were ineffective to  
10 shield those statements from liability.

11 55. The defendants are also liable for any false or misleading FLS pleaded  
12 because, at the time each FLS was made, the speaker knew the FLS was false or  
13 misleading and the FLS was authorized and/or approved by an executive officer of  
14 Questcor who knew that the FLS was false. None of the historic or present tense  
15 statements made by defendants were assumptions underlying or relating to any plan,  
16 projection or statement of future economic performance, as they were not stated to be  
17 such assumptions underlying or relating to any projection or statement of future  
18 economic performance when made, nor were any of the projections or forecasts made  
19 by defendants expressly related to or stated to be dependent on those historic or  
20 present tense statements when made.

21 **CLASS ACTION ALLEGATIONS**

22 56. Plaintiff brings this action as a class action pursuant to Rule 23 of the  
23 Federal Rules of Civil Procedure on behalf of all persons who purchased or otherwise  
24 acquired Questcor common stock during the Class Period (the "Class"). Excluded  
25 from the Class are defendants and their families, the officers and directors of the  
26 Company, at all relevant times, members of their immediate families and their legal  
27 representatives, heirs, successors or assigns and any entity in which defendants have  
28 or had a controlling interest.

1       57. The members of the Class are so numerous that joinder of all members is  
2 impracticable. The disposition of their claims in a class action will provide substantial  
3 benefits to the parties and the Court. Questcor has nearly 59.7 million shares of stock  
4 outstanding, owned by hundreds if not thousands of persons.

5       58. There is a well-defined community of interest in the questions of law and  
6 fact involved in this case. Questions of law and fact common to the members of the  
7 Class which predominate over questions which may affect individual Class members  
8 include:

- 9             (a) whether the 1934 Act was violated by defendants;
- 10            (b) whether defendants omitted and/or misrepresented material facts;
- 11            (c) whether defendants' statements omitted material facts necessary to  
12 make the statements made, in light of the circumstances under which they were made,  
13 not misleading;
- 14            (d) whether defendants knew or deliberately disregarded that their  
15 statements were false and misleading;
- 16            (e) whether the price of Questcor common stock was artificially  
17 inflated; and
- 18            (f) the extent of damage sustained by Class members and the  
19 appropriate measure of damages.

20       59. Plaintiff's claims are typical of those of the Class because plaintiff and  
21 the Class sustained damages from defendants' wrongful conduct.

22       60. Plaintiff will adequately protect the interests of the Class and has retained  
23 counsel who are experienced in class action securities litigation. Plaintiff has no  
24 interests which conflict with those of the Class.

25       61. A class action is superior to other available methods for the fair and  
26 efficient adjudication of this controversy.

27  
28

## COUNT I

**For Violation of §10(b) of the 1934 Act and Rule 10b-5  
Against All Defendants**

62. Plaintiff incorporates ¶¶1-61 by reference.

63. During the Class Period, defendants disseminated or approved the false statements specified above, which they knew or deliberately disregarded were misleading in that they contained misrepresentations and failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

64. Defendants violated §10(b) of the 1934 Act and Rule 10b-5 in that they:

(a) employed devices, schemes and artifices to defraud;

(b) made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

(c) engaged in acts, practices and a course of business that operated as a fraud or deceit upon plaintiff and others similarly situated in connection with their purchases of Questcor common stock during the Class Period.

65. Plaintiff and the Class have suffered damages in that, in reliance on the integrity of the market, they paid artificially inflated prices for Questcor common stock. Plaintiff and the Class would not have purchased Questcor common stock at the prices they paid, or at all, if they had been aware that the market price had been artificially and falsely inflated by defendants' misleading statements.

## COUNT II

**For Violation of §20(a) of the 1934 Act  
Against All Defendants**

66. Plaintiff incorporates ¶¶1-65 by reference.

67. The Individual Defendants acted as controlling persons of Questcor within the meaning of §20(a) of the 1934 Act. By virtue of their positions with the Company, and ownership of Questcor stock, the Individual Defendants had the power

1 and authority to cause Questcor to engage in the wrongful conduct complained of  
2 herein. Questcor controlled the Individual Defendants and all of its employees. By  
3 reason of such conduct, defendants are liable pursuant to §20(a) of the 1934 Act.

## **PRAYER FOR RELIEF**

5 WHEREFORE, plaintiff prays for judgment as follows:

- 6        A. Declaring this action to be a proper class action pursuant to Fed. R. Civ.  
7 P. 23;  
8        B. Awarding plaintiff and the members of the Class damages, including  
9 interest;  
10      C. Awarding plaintiff's reasonable costs and attorneys' fees; and  
11      D. Awarding such equitable/injunctive or other relief as the Court may deem  
12 just and proper.

## JURY DEMAND

14 Plaintiff demands a trial by jury.

15 | DATED: September 26, 2012

ROBBINS GELLER RUDMAN  
& DOWD LLP  
DARREN J. ROBBINS  
DAVID C. WALTON  
CATHERINE J. KOWALEWSKI

Catherine J. Kowalewski  
CATHERINE J. KOWALEWSKI

655 West Broadway, Suite 1900  
San Diego, CA 92101  
Telephone: 619/231-1058  
619/231-7423 (fax)

1 HOLZER HOLZER & FISTEL, LLC  
2 COREY D. HOLZER  
3 MICHAEL I. FISTEL, JR.  
4 MARSHALL P. DEES  
5 200 Ashford Center North, Suite 300  
6 Atlanta, GA 30338  
7 Telephone: 770/392-0090  
8 770/392-0029 (fax)

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10 Attorneys for Plaintiff  
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**CERTIFICATION OF NAMED PLAINTIFF  
PURSUANT TO FEDERAL SECURITIES LAWS**

The undersigned declares, as to the claims asserted under the federal securities laws, that:

Plaintiff has reviewed the initial complaint filed in this action.

Plaintiff did not purchase and/or acquire the security that is the subject of this action at the direction of Plaintiff's counsel or in order to participate in any private action under the federal securities laws.

Plaintiff is willing to serve as a representative party on behalf of the class, including providing testimony at deposition and trial, if necessary. I understand that this is not a claim form, and that my ability to share in any recovery as a member of the class is not dependent upon execution of this Plaintiff Certification.

Plaintiff's transactions in the security that is the subject of this action during the Class Period are as follows:

Purchases:

<u>Name of Company</u>	<u>Date(s) Purchased</u>	<u># Shares Purchased</u>	<u>Cost</u>
QCOR	See Attached Schedule A		

Sales:

<u>Name of Company</u>	<u>Date(s) Sold</u>	<u># Shares Sold</u>	<u>Proceeds</u>
QCOR	See Attached Schedule A		

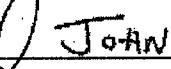
During the three (3) years prior to the date of this certification, Plaintiff has not sought to serve or served as a class representative in an action filed under the federal securities laws except for the following (if any):

Plaintiff will not accept any payment for serving as a representative party on behalf of the class beyond Plaintiff's pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the class as ordered or approved by the court.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25<sup>th</sup> day of September, 2012 in Arrow Lake, Ohio.  
City State

(Signature) X 

(Print Name)  JOAN K. NORTON

Schedule A

QCOR Purchased During Class Period

Date	# Shares Purchased	Price Per Share
9/20/2012	7000	\$31.7423
9/20/2012	7000	\$28.50

QCOR Sold During Class Period

Date	# Shares Sold	Price Per Share
9/20/2012	300	\$30.94
9/20/2012	300	\$30.93
9/20/2012	312	\$30.9307
9/20/2012	6088	\$30.942
9/21/2012	1000	\$31.7201

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

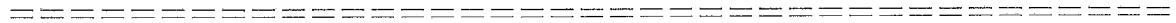
This case has been assigned to District Judge Dolly Gee and the assigned discovery Magistrate Judge is Fernando M. Olguin.

The case number on all documents filed with the Court should read as follows:

**SACV12 - 1623 DMG (FMOx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge



**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

Western Division  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

Southern Division  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

Eastern Division  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Name &amp; Address:

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

JOHN K. NORTON, Individually and on Behalf of All  
Others Similarly Situated,

CASE NUMBER

**SACV12- 1623 DMG (FMOx)**

PLAINTIFF(S)

v.

QUESTCOR PHARMACEUTICALS, INC., DON M.  
BAILEY, MICHAEL H. MULROY, STEPHEN L.  
CARTT and DAVID YOUNG,

**SUMMONS**

DEFENDANT(S).

TO: DEFENDANT(S):

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached  complaint  amended complaint  counterclaim  cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Catherine J. Kowalewski, whose address is Robbins Geller, et al., 655 West Broadway, #1900, San Diego, CA 92101 619/231-1058. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Dated: SEP 26 2012

Clerk, U.S. District Court

By: \_\_\_\_\_

Deputy Clerk

(Seal of the Court)



*[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3).]*

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET

<b>I (a) PLAINTIFFS</b> (Check box if you are representing yourself <input type="checkbox"/> ) JOHN K. NORTON, Individually and on Behalf of All Others Similarly Situated		<b>DEFENDANTS</b> QUESTCOR PHARMACEUTICALS, INC., DON M. BAILEY, MICHAEL H. MULROY, STEPHEN L. CARTT and DAVID YOUNG			
Ohio					
<b>(b) Attorneys</b> (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)  Catherine J. Kowalewski (216665) Robbins Geller Rudman & Dowd LLP 655 West Broadway, Suite 1900, San Diego, CA 92101 619-231-1058		Attorneys (If Known)			
<b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.)		<b>III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only</b> (Place an X in one box for plaintiff and one for defendant.)			
<input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)		Citizen of This State      PTF    DEF <input type="checkbox"/> 1 <input type="checkbox"/> 1      Incorporated or Principal Place of Business in this State <input type="checkbox"/> 4 <input type="checkbox"/> 4			
<input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)		Citizen of Another State <input type="checkbox"/> 2 <input type="checkbox"/> 2      Incorporated and Principal Place of Business in Another State <input type="checkbox"/> 5 <input type="checkbox"/> 5			
		Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 <input type="checkbox"/> 3      Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 6			
<b>IV. ORIGIN</b> (Place an X in one box only.)					
<input checked="" type="checkbox"/> 1 Original <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge					
<b>V. REQUESTED IN COMPLAINT: JURY DEMAND:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Check 'Yes' only if demanded in complaint.)					
<b>CLASS ACTION under F.R.C.P. 23:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <b>MONEY DEMANDED IN COMPLAINT:</b> \$ _____					
<b>VI. CAUSE OF ACTION</b> (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) 15 U.S.C. §§78j(b) and 78(a)      COMPLAINT FOR VIOLATION OF THE FEDERAL SECURITIES LAWS					
<b>VII. NATURE OF SUIT</b> (Place an X in one box only.)					
<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input checked="" type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<b>TORTS</b> <b>PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<b>PRIISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PENALTY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	<b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	

SACV12- 1623 DMG (FMOx)

FOR OFFICE USE ONLY: Case Number: \_\_\_\_\_

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed?  No  Yes  
If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case?  No  Yes  
If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

- (Check all boxes that apply)
- A. Arise from the same or closely related transactions, happenings, or events; or
  - B. Call for determination of the same or substantially related or similar questions of law and fact; or
  - C. For other reasons would entail substantial duplication of labor if heard by different judges; or
  - D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.  
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District: <sup>*</sup>	California County outside of this District; State, if other than California; or Foreign Country
	Ohio

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.  
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District: <sup>*</sup>	California County outside of this District; State, if other than California; or Foreign Country
Orange	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.

**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District: <sup>*</sup>	California County outside of this District; State, if other than California; or Foreign Country
Orange	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

**Note:** In land condemnation cases, use the location of the tract of land involved

**X. SIGNATURE OF ATTORNEY (OR PRO PER):** Cathleen Kowalewski Date September 26, 2012

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))